

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

RICHARD BURTON; and JACQUELINE
BURTON, individually and on behalf of all
others similarly situated,

Case No. 1:24-cv-00774-CL

ORDER

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE
ASSOCIATION; and USAA CASUALTY
INSURANCE COMPANY, et al.,

Defendants.

KASUBHAI, United States District Judge:

This matter is before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Magistrate Judge Mark D. Clarke issued a Findings and Recommendation on December 3, 2024, in which he recommends that this Court deny Defendants’ Motion to Dismiss Plaintiffs’ Counts 4, 5, and 6. F&R, ECF No. 64. When a party objects to a magistrate judge’s Findings and Recommendations, the district court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). The district court has no obligation to review the portions of the magistrate judge’s report to which no party has objected. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). However, the district court is not precluded from

sua sponte review of other portions of the Findings and Recommendation, *Thomas v. Arn*, 474 U.S. 140, 149 (1985), and the Advisory Committee notes to Federal Rule of Civil Procedure 72(b) recommend that the court should review such portions for “clear error on the face of the record.” Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment.

Here, Defendants filed timely objections to the Magistrate Judge’s Findings and Recommendation. Def. Obj., ECF No. 67. The Court has carefully considered Defendants’ objections and reviewed the relevant portions of the record *de novo* and concludes that there is no basis to modify the Findings and Recommendation. The Court likewise finds no clear error with the remainder of the Findings and Recommendation to which no objections were filed.

CONCLUSION

The Court ADOPTS Magistrate Judge Clarke’s Findings and Recommendation, ECF No. 64. Defendants’ Motion to Dismiss Plaintiffs’ Counts 4, 5, and 6 (ECF No. 36) is therefore DENIED.

IT IS SO ORDERED.

DATED this 24th day of January 2025.

Mustafa T. Kasubhai (he/him)
United States District Judge